

FAIR fails to advance in Senate

■ Baucus and Burns split vote on proposal

The U.S. Senate failed to advance a bill last week providing asbestos litigation relief for beleaguered corporations and a medical trust for victims of asbestos-related disease.

The senate stalled S.B. 2290, the Fairness in Asbestos Injury Resolution Act, by a 50-47 vote falling ten votes shy of the needed 60 to advance it and break a filibuster.

Montana's two senators worked to insure that Libby asbestos victims were not forgotten in medical criteria included in the bill's trust fund. However, Sen. Conrad Burns voted for the bill to move onto the Senate floor for more discussion while Sen. Max Baucus voted against the cloture.

"This bill is not perfect, but we need to consider the fact that by blocking its movement in the Senate we may not see any other movement on this issue," Burns said. "Stalling a full Senate vote on this bill will not make the problems and illnesses caused by asbestos go away, and we owe it to the many victims of asbestos to deal with this issue head-on."

Burns said he considered the needs of people in Libby, who have specific challenges not included in the initial FAIR proposal, to be a priority.

"I am disappointed that today's vote has shown that many members do not consider Libby and the asbestos issues around the country a priority, but rather, as issues that can be pushed out of focus," he said.

Baucus has been working for months with Judiciary Committee Chairman Orrin Hatch, R-Utah, to carve out a special provision in the bill for Libby residents, taking into account the unique health impacts associated with exposure to the tremolite asbestos found in Libby.

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In a letter to Hatch dated earlier this month, Dr. Alan Whitehouse of Spokane, who has treated more than 500 Libby asbestos victims, said more than 90 percent of the Libby patients would be excluded from the bill's medical criteria.

He said many of his patients would die of asbestos pleural disease and never meet the criteria of the bill.

Whitehouse questioned the compensation for asbestos victims, too.

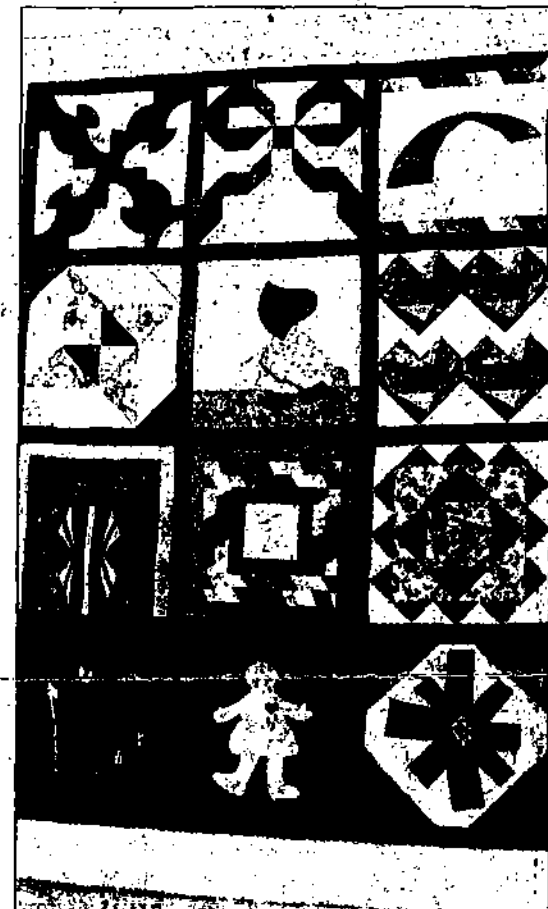
"The 2004 bill simply shifts the expense from W.R. Grace and others to the taxpayers under Medicare and Medicaid," Whitehouse wrote. "Even worse, once diagnosed with asbestos disease, the patient becomes uninsurable. This means that should the patient develop heart problems, diabetes, or other problems unrelated to asbestos, these expenses also fall upon the taxpayer through Medicare or Medicaid."

Baucus worked with Hatch to include specific exemptions into the bill to protect Libby residents, which he called a "major victory," but said he wanted greater assurances that Libby people who are ill get the financial compensation they're due.

S.B. 2290 would set up a trust fund of about \$124 billion from mandatory contributions from companies and corporations facing asbestos litigation and their insurers, as well as monies from existing bankruptcy trusts. Those companies would be shielded from additional liability.

Plaintiffs who believe they have been injured by asbestos exposure would submit claims to the administrator of the trust fund, and qualified claimants would be paid a fixed amount depending on eligibility and disease type on a no-fault basis.

"I have heard from people in Libby that they would rather we not proceed until we find a way to solve this outstanding uncertainty in the bill," Baucus said in a speech shortly before the vote. "I have pledged to the people of Libby that I will do everything in my power to help them make their community whole again and to make sure their



An asbestos-themed quilt by the Libby Quilt Guild will be on display as part of the "Landscape of Asbestos" series of events in Missoula and Libby this spring and summer.

long-term health care needs are met."

Baucus said passing the asbestos legislation, with a "Libby Fix" included, is essential because W.R. Grace may not be able to compensate Libby residents following the company's filing for bankruptcy.

Baucus said he will fight to get additional protections for Libby residents and then work to pass the bill.